IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.608 OF 1999

Limji C.Mistry, an Indian Inhabitant residing at Mistry House no.5, St.Dominic's Road, Bandra,Mumbai-400050 ..Petitioner (Ori.Accused no.2)

Versus

1. Homi Nariman Bhiwandiwalla of Bombay, Indian Inhabitant residing at Bhiwandiwala Terrace, 'B' block, 1st floor Dhobi Talao, Mumbai-400002 ..Ori.Complainant

2. The State of Maharashtra ..Respondents

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Mr.A.V.Doijode Advocate for Petitioner.
Mr.N.C.Shetty Advocate,for Respondent no.1-absent.
Mr.A.S.Shitole A.P.P. for Respondent No.2.

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPTEMBER 30,2004

ORAL JUDGMENT:

1. The petitioner has preferred this petition praying that the process issued against him by the learned Metropolitan Magistrate in Case No. 2/S/1999 pending before the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai, be quashed. It is further stated on behalf of

petitioner that complainant in the said case i.e. Shri.Homi Nariman Bhiwandiwalla has expired and hence, the proceedings relating to the said complaint, be declared as abated.

2. None appears for the respondent-original complainant. However, the letter of the wife of the complainant i.e. Smt.Mani Homi Bhiwandiwalla written by her on her behalf and on behalf of her son Shri.Kaizad Homi Bhiwandiwalla is placed on record. The said letter is taken on record and marked as 'X' for identification. In the said letter, it is *inter alia* stated that they wish to withdraw the proceedings pending before the High Court as well as the proceedings pending before any other Court. In view of the fact that complainant has expired and that his heirs do not wish to proceed with the matter any further, the proceedings relating to Case No. 2/S/1999 pending before the learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai, are quashed.

. Writ petition is allowed and is disposed of in the above terms. Rule is made absolute accordingly.

[V.K.TAHILRAMANI.J]